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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,888	01/15/2004	Timothy B. Ely	450634.90018	5174

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EXAMINER

BOSWELL, CHRISTOPHER J

ART UNIT PAPER NUMBER

3676

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/757,888

**Applicant(s)**

ELY ET AL.

**Examiner**

Christopher Boswell

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION*****Drawings***

The drawings are objected to because elements 72 and 74 are not shown in the proper cross-hatching, as required in MPEP §608.02. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

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The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Objections*

Claims 14 is objected to because of the following informalities: Claim 14, line 5, discloses the recitation "said through hole" wherein there is no prior recitation of this limitation. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent number 5,161,838 to Ely et al.

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Ely discloses a locking assembly for locking first (66) and second members (68) together, the assembly having a housing member (2) having a through hole (4) formed therethrough, the through hole having an insertion end (figure 2) and an exit end (22), a retention member (14) disposed in the through hole, and a stud member (30) including a head portion (42) and a shank portion (32) joined by a separable portion (50), the shank portion being received in the through hole through the insertion end and engaging the retention member to prevent removal of the shank portion from the through hole through the insertion end (figure 3), wherein with the first and second members disposed between the housing member body portion and the stud member head portion, upon breaking of the separable portion, the head portion separates from the shank portion to allow separation of the first and second members and removal of the shank portion from the through hole through the exit end (column 4, lines 33-38), as in claim 1.

Ely also discloses the retention member is a snap ring (14) disposed in a groove (12) formed in an inside wall (10) of the through hole, and the shank portion includes a circumferential groove (44) adapted to receive the snap ring to prevent removal of the shank portion from the through hole through the insertion end (column 3, lines 55-59), as in claim 2, as well as the housing member body portion has a flange portion (6) extending radially outwardly from the remainder of the body portion, as in claim 13.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-12 and 14-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ely, as applied above in claims 1, 2, and 13, and further in view of U.S. Patent Number 4,226,102 to Mattress, Jr.

Ely discloses the invention substantially as claimed. Ely discloses a locking assembly for locking first (66) and second members (68) together, the assembly having a housing member (2) having a through hole (4) formed therethrough, the through hole having an insertion end (figure 2) and an exit end (22), a retention member (14) disposed in the through hole, and a stud member (30) including a head portion (42) and a shank portion (32) joined by a separable portion (50), the shank portion being received in the through hole through the insertion end and engaging the retention member to prevent removal of the shank portion from the through hole through the insertion end (figure 3), wherein with the first and second members disposed between the housing member body portion and the stud member head portion, upon breaking of the separable portion, the head portion separates from the shank portion to allow separation of the first and second members and removal of the shank portion from the through hole through the exit end, as in claims 14, 15, 27, and 29. However, Ely does not disclose a seal fixed over the head portion of the shank, as in claims 3, 14, and 30. Mattress teaches of a seal (18), having indicia and a tab (figures 2 and 3), as in claims 4-5, 8, 16-17, 20, 31-32, and 35, that is fixed to a locking stud (29) and a housing for the lock assembly in a locking assembly for a meter box, such that, when the seal is permanently deformed upon separating the stud from a housing in the same field of endeavor for the purpose of indicating if an attempt to tamper with the lock has been made (column 6, lines 62-68). It would have been obvious to one with ordinary skill in the art at the

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time the invention was made to apply the seal of Mattress, with a tab and indicia, through the head and shank portions of the Ely, by threading the wire of the seal through the head portion in order to indicate if an attempt to tamper with the lock has been made, as in claims 3-5, 8, 14, 16-17, 20, and 30-32.

Ely further discloses a retaining ring (34) that engages the head portion, as in claims 6-7, 18-19, and 33-34, as well as the retention member being a snap ring (14) disposed in a groove (12) formed in an inside wall (10) of the through hole, and the shank portion includes a circumferential groove (44) adapted to receive the snap ring to prevent removal of the shank portion from the through hole through the insertion end (column 3, lines 55-59), as in claims 26 and 28, as well as the housing member body portion has a flange portion (6) extending radially outwardly from the remainder of the body portion, as in claims 25 and 39.

Furthermore, Ely discloses a ring member (60) having a ring axis and adapted to fit about a cover portion of a meter (figure 6), the ring member having first (62) and second ends (64), the first member extending from the first ring member end includes a first leg (66) with a first hole (70) formed therethrough, and the second member extending from the second ring member end includes a second leg (68) with a second hole (72) formed therethrough, the first and second legs extending generally parallel to each other in an overlapping relation, such that the first and second holes are aligned (figures 4 and 5) and the housing member and the stud member extend through the first and second holes (figures 4 and 5), as in claims 9, 21 and 27. However, Ely does not disclose the first and second holes have axes parallel to the axis of the ring. Mattress teaches of a ring member (15) to fit about a cover portion of a meter, where the through holes (37) of the ring member are parallel to the axis of the ring in the same field of endeavor for the

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purpose of rendering the cutting an edge of the ring member difficult (column 1, line 67-column 2, line 2). It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teachings of Mattress to have the axes of the through holes of the ring member being substantially parallel to that of the axis of the ring member in order to render the cutting of an edge of the ring member difficult by not exposing easily available edges.

Ely additionally discloses the housing member being fixed to the first leg through the first hole (figure 5), as in claims 10, 22, and 36, wherein the housing member is received in the second hole formed in the second leg to maintain the holes in an aligned relationship (figure 7), as in claims 11, 23, and 37, as well as the distal ends of the first and second legs are shaped to expose engagement surfaces of the first and second legs for separating the first and second legs (figure 5), as in claims 12, 24, and 38.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to meter box locking assemblies:

U.S. Patent Number 6,684,670 to Agbay et al., U.S. Patent Number 5,542,722 to DeWalch, U.S. Patent Number 5,378,030 to Georgopoulos et al., U.S. Patent Number 5,121,953 to Mahaney, U.S. Patent Number 4,828,300 to Agbay, U.S. Patent Number 4,413,490 to Nielsen, Jr., U.S. Patent Number 4,331,012 to Swisher, U.S. Patent Number 4,080,811 to Nielsen, Jr., U.S. Patent Number 2,359,940 to Reynolds.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (703) 305-4067. The examiner can normally be reached on 8:30 - 5:00 M-F.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJB

December 22, 2004



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